

## 0.0 Application for Review P1938/2019 of Planning Permit Application PLN18/0598 at 21 Glendale Avenue, Templestowe (Amended Plans for VCAT)

File Number:	IN20/56
Responsible Director:	Director City Planning and Community
Applicant:	Kamber Invest Pty Ltd
Planning Controls:	General Residential Zone, Schedule 2; Design and Development Overlay, Schedule 8-3 (Sub-Precinct B); Principal Public Transport Network (PPTN)
Ward:	Heide
Attachments:	<ol style="list-style-type: none"><li>1 Advertised Plans (Original Proposal)</li><li>2 Delegate Report (Original Proposal)</li><li>3 Refusal Notice (Original Proposal)</li><li>4 Amended Plans (New Proposal)</li><li>5 Legislative Requirements</li></ol>

### EXECUTIVE SUMMARY

#### Introduction

1. This report relates to an application for a planning permit (PLN18/0598) for six two-storey dwellings at 21 Glendale Avenue, Templestowe that is currently the subject of a review proceeding (P1938/2019) at the Victorian Civil and Administrative Tribunal (VCAT). The application is currently before VCAT for review following the decision to refuse to grant a permit. The hearing is scheduled to commence on 23 March 2020.
2. This report provides an assessment of amended plans that have been served on Council and neighbouring properties and are sought to be formally substituted through the VCAT proceeding.
3. The report recommends that Council support the amended proposal (subject to conditions) as the reasons for the refusal of the application have now been addressed.
4. The original application was not reported to Council and was refused under delegation.
5. The amended application is now being reported to Council to form a view on the newly substituted amended plans, given the number of objections received to the initial proposal.

#### Amended Plans

6. The aspects that have been amended from the original proposal generally relate to a reduction in the proposed built form which, most significantly, includes the introduction of separation at the first floor level. The reduction in the built form is primarily achieved through a reduction in the number of bedrooms within the dwellings. Overall, four bedrooms have been removed from the development resulting in a 52 square metre reduction in the first floor level.

7. The fundamental details of the proposal, including the number of storeys, number of dwellings and car parking provision remain consistent with the original proposal.

#### **Advertising, Objections and Plan Circulation**

8. Notice of the original planning permit application received a total of 92 objections.
9. Prior to the circulation of the amended plans, there were no other parties to the VCAT proceeding (noting that one statement of grounds was submitted by an objector that did not wish to join as a party to the proceeding).
10. Notice of the proposed amendment to the application was given by the Applicant for Review on 5 February 2020, to all originally notified properties and to any objector who submitted a statement of grounds. All notified persons have until the 28 February 2020, to lodge a statement of grounds with VCAT and become a party to the proceeding.

#### **Key Issues in Consideration of the Amended Proposal**

11. The key issues for Council in considering the proposal relates to the following:
  - a. Whether the proposal has addressed the original reasons for the refusal of the application;
  - b. Whether the proposal adequately contributes to the preferred neighbourhood character outcomes; and
  - c. Whether the proposal appropriately considers siting, built form and amenity requirements.

#### **Assessment**

12. The proposal presents a significantly improved outcome that addresses the original reasons for the refusal of the application and demonstrates compliance with all relevant provisions of the Manningham Planning Scheme.
13. The amended proposal presents an appropriate scale and built form that contributes to the preferred neighbourhood character established under the DDO8 and adequately considers both off-site and on-site amenity.

#### **Conclusion**

14. The report concludes by recommending that, subject to conditions, Council support the amended proposal through the VCAT proceeding.

#### **RECOMMENDATION**

##### **That Council:**

- A. **In VCAT proceeding P1938/2019, having considered the proposed amendments, support the amended proposal for the construction of six, two-storey dwellings and associated garage as shown on the plans prepared by *Planning & Design*, job number 6181, revision F, dated 28 January 2020 subject to the following permit conditions:**

**Amended Plans**

1. Before the development starts, amended plans drawn to scale and dimensioned, must be submitted via email and approved by the Responsible Authority. When approved the plans will then form part of the permit. The plans must be generally in accordance with the decision plans (prepared by *Planning and Design*, project number 6181, revision F, dated 28 January 2020), but modified to show:
  - 1.1 Details, location and overall height of the screening device provided to the rooftop service equipment clearly shown on site plans and elevations.
  - 1.2 In relation to the eastern boundary;
    - 1.2.1 Section drawings showing sight lines from the terrace and east-facing dining/living/kitchen window of dwellings 2-6 to demonstrate the minimum extent of screening required to limit overlooking in accordance with Standard B22 of Clause 55.04-6 Overlooking of the Manningham Planning Scheme;
    - 1.2.2 The existing fence replaced with a new 2 metre high timber paling fence; and
    - 1.2.3 Any trellis extensions provided on a free standing structure inside the boundary fence and to be of the minimum height required to adequately limit screening (as per the aforementioned section drawings).
  - 1.3 Details of the materials and transparency of all trellis additions, to demonstrate compliance with Standard B22 of Clause 55.04-6 Overlooking of the Manningham Planning Scheme.
  - 1.4 The selected timber privacy screens applied to first floor windows replaced with a more durable material.
  - 1.5 The extent of glazing to the primary entry doors of each dwelling reduced to increase privacy to the dwellings.
  - 1.6 Details of the storage areas of dwelling 2 and 3, which are to be within a storage cupboard.
  - 1.7 The western wall of Dwelling 1 at the first floor level provided with a consistent minimum boundary setback of 3.62 metres.
  - 1.8 Deletion of the *Innowood* cladding finish (and associated section of protruding wall) from the western side of the frontage of Dwelling 1.
  - 1.9 Deletion of the southernmost arbor feature over that projects over the basement ramp.
  - 1.10 All screening treatments to limit overlooking notated on the relevant floor plans.
  - 1.11 Deletion of the *batten screening* feature from the external walls.
  - 1.12 The balustrade associated with Dwelling 1's first floor balcony to be of a glazed material to all sides (including the privacy ledge), with obscured glazing used where necessary to limit overlooking.
  - 1.13 The eastern wall of Dwelling 6 at the first floor level recessed a minimum of 0.5 metres from the ground level wall below.
  - 1.14 The western wall of Dwelling 6 at the first floor level provided with a minimum boundary setback of 3.1 metres.
  - 1.15 An additional 0.5 metres in reversing area provided on the western side of the aisle opposite the northern-most car parking space associated with Dwelling 6, achieved by reducing the western boundary setback to 1.5 metres in this area.

1.16 Any changes required by the updated sustainability management plan required by this permit.

#### Endorsed Plans

2. The development as shown on the approved plans must not be altered without the written consent of the Responsible Authority.

#### Construction Management Plan

3. Not less than 90 days before the development starts, a Construction Management Plan (CMP) must be submitted via email and approved by the Responsible Authority. When approved the plan will form part of the permit. The Construction Management Plan is to be prepared in accordance with the template within Council's Construction Management Plan Guidelines. The CMP must address:

- 3.1 Element A1: Public Safety, Amenity and Site Security;
- 3.2 Element A2: Operating Hours, Noise and Vibration Controls;
- 3.3 Element A3: Air Quality and Dust Management;
- 3.4 Element A4: Stormwater and Sediment Control and Tree Protection (also as per the specific requirements of this permit);
- 3.5 Element A5: Waste Minimisation and Litter Prevention; and
- 3.6 Element A6: Traffic and Parking Management (including measures that are to be adopted to manage the parking of builder/contractor vehicles).

Council's Works Code of Practice (June 2016) and Construction Management Plan Guideline (June 2016) are available on Council's website.

#### Sustainability Management Plan

4. Prior to the endorsement of plans under Condition 1 of this permit, a sustainability management plan must be submitted via email and approved to the satisfaction of the Responsible Authority. When approved, the plan will form part of the permit. The plan must be generally in accordance with the sustainable management plan prepared by SBE, dated 10 July 2019, but must be modified to reflect the updated development as shown on the plans submitted under Condition 1 of the permit.
5. The development must be constructed in accordance with the sustainability management plan approved and forming part of this permit, and all of its requirements must be implemented and complied with at all times to the satisfaction of the Responsible Authority, unless with the further written approval of the Responsible Authority.

#### Waste Management Plan

6. Not less than 90 days before the development starts, a Waste Management Plan must be submitted via email and approved to the satisfaction of the Responsible Authority. When approved, the plan will form part of the permit. The plan must be generally in accordance with the waste management plan contained in appendix E of the sustainable

management prepared by *SBE*, dated 10 July 2019, but must be modified to reflect the updated development as shown on the plans submitted under Condition 1 of the permit.

7. The private waste contractor must be able to access the development and the private waste contractor bins at all relevant times. No private waste contractor bins may be left outside the development boundary at any time on any street frontage for any reason.

#### **Tree Protection and Management Plan**

8. Before the submission of plans to be endorsed under Condition 1 of this permit, a Tree Protection and Management Plan (TPMP), setting out how the trees to be retained will be protected during construction, and which generally follows the layout of Section 5 of AS4970 'Protection of trees on development sites', must be submitted to and approved by the Responsible Authority. When approved the TPMP will be endorsed and form part of the permit. The TPMP must include:
  - 8.1 A plan showing the TPZ and SRZ for all trees to be retained (as per the Condition 1 plans) along with the location of protective fencing and/or areas where ground protection systems will be used;
  - 8.2 Details of proposed work within TPZ and arborist supervision when this is proposed;
  - 8.3 A statement advising any removal or pruning of Council owned trees must be undertaken by Council approved contractor; and
  - 8.4 A statement that Council will be notified within 24 hours of any breach of the TPMP or where damage has occurred to the tree.
9. All Vegetation Protection Fencing must be maintained in good condition until the completion of the construction works on the site to the satisfaction of the Responsible Authority.
10. The owner must ensure that all contractors/tradespersons (including demolition workers) who install services or work near trees to be retained are made aware of the need to preserve the trees and to minimize impacts on the trees through appropriate work practices.

#### **Completion**

11. Before the occupation of the approved dwellings, landscaped areas must be fully planted and mulched or grassed generally in accordance with the approved plan and to the satisfaction of the Responsible Authority.
12. Privacy screens and obscure glazing as required in accordance with the approved plans must be installed prior to occupation of the building to the satisfaction of the Responsible Authority and maintained thereafter to the satisfaction of the Responsible Authority. The use of obscure film or spray fixed to transparent windows is not considered to be 'obscure glazing' or an appropriate response to screen overlooking.
13. Driveway gradients and transitions as shown on the plan approved

under Condition 1 of this permit must be generally achieved through the driveway construction process to the satisfaction of the Responsible Authority.

#### Landscape Plan

14. Before the development starts, a landscaping plan prepared by a landscape architect or person of approved competence must be submitted via email to the Responsible Authority for approval. Such plan must be generally in accordance with the plan approved under Condition 1 of this permit and must show:

- 14.1 Species, locations, approximate height and spread of proposed planting and the retention of existing trees and shrubs, where appropriate or as directed by any other condition of this Permit;
- 14.2 Details of soil preparation and mulch depth for garden beds and surface preparation for grassed areas;
- 14.3 Fixed edge strips for separation between grassed and garden areas and/or to contain mulch on batters;
- 14.4 A sectional detail of the canopy tree planting method which includes support staking and the use of durable ties;
- 14.5 A minimum of two (2) canopy trees, within the private open space of Dwelling 6, to be a minimum height of 1.5 metres at the time of planting;
- 14.6 Screen planting along the side and rear boundaries, to be a minimum height of 0.5 metres at the time of planting;
- 14.7 Appropriate planting within the drainage and sewerage easement to minimise the risk of damage to assets within the easement;
- 14.8 Planting within 2 metres along the frontage from the edge of the driveway(s) and 2.5 metres along the driveway(s) from the frontage to be no greater than 0.9 metres in height at maturity.

The use of synthetic grass as a substitute for open lawn area within secluded private open space or a front setback will not be supported. Synthetic turf may be used in place of approved paving decking and/or other hardstand surfaces.

#### Landscape Bond

15. Before the review of development plans under Condition 1 of this permit, a \$10,000 cash bond or bank guarantee must be lodged with the Responsible Authority to ensure the completion and maintenance of landscaped areas and such bond or bank guarantee will only be refunded or discharged after a period of 13 weeks from the completion of all works, provided the landscaped areas are being maintained to the satisfaction of the Responsible Authority.

#### Stormwater – On-site detention (OSD)

16. The owner must provide on-site storm water detention storage or other suitable system (which may include but is not limited to the re-use of stormwater using rainwater tanks), to limit the Permissible Site Discharge (PSD) to that applicable to the site coverage of 35 percent of hard surface or the pre-existing hard surface if it is greater than 35 percent. The PSD must meet the following requirements:

- 16.1 Be designed for a 1 in 5 year storm; and
- 16.2 Storage must be designed for 1 in 10 year storm.

#### **Construction Plan (OSD)**

- 17. Before the development starts, a construction plan for the system required by this permit must be submitted to and approved by the Responsible Authority. The system must be maintained by the Owner thereafter in accordance with the approved construction plan to the satisfaction of the Responsible Authority.

#### **Drainage**

- 18. Stormwater must not be discharged from the subject land other than by means of drainage to the legal point of discharge. The drainage system within the development must be designed and constructed to the requirements and satisfaction of the relevant Building Surveyor. A connection to Council maintained assets must not be constructed unless a Connection to Council Drain Permit is first obtained from the Responsible Authority.
- 19. The whole of the land, including landscaped and paved areas must be graded and drained to the satisfaction of the Responsible Authority, to prevent ponding and to minimise overland flows onto adjoining properties.

#### **Site Services**

- 20. All services, including water, electricity, gas, sewerage and telephone, must be installed underground and located to the satisfaction of the Responsible Authority.
- 21. All external services including pipes must be concealed and screened respectively to the satisfaction of the Responsible Authority.
- 22. Communal lighting must be connected to reticulated mains electricity and be operated by a time switch, movement sensors or a daylight sensor to the satisfaction of the Responsible Authority.
- 23. Any reverse cycle air-conditioning unit, hot water boosters or other service plant erected on the walls of the approved dwellings must be appropriately designed and finished with screening if necessary to minimise general visual impacts from off the site to the satisfaction of the Responsible Authority.
- 24. All building services and metering located in the front setback, including fire services, gas, water and electricity, must be installed in accordance with the approved plans and must be positioned in discrete manner and be screened using cabinets etc that integrated with the overall building design to the satisfaction of the Responsible Authority.

#### **Rooftop Plant**

- 25. All roof-top plant and services (including any hot water systems, but

excluding solar panels) must be installed in appropriately screened areas, unless otherwise agreed in writing with the Responsible Authority.

26. Unless sufficiently screened by roof parapets, all solar panels and any associated safety railings must be located away from the outer edges of the roof section upon which they are installed, so as to minimise general visual impacts from off the site to the satisfaction of the Responsible Authority

#### **Vehicle Crossings and Accessways**

27. Prior to occupation of the approved dwellings, any new or modified vehicular crossover must be constructed in accordance with the plans endorsed under Condition 1 of this permit to the satisfaction of the Responsible Authority.
28. Redundant vehicle crossovers must be removed and the footpath, nature strip and kerbing reinstated to the satisfaction of the Responsible Authority.

#### **Car Parking**

29. Before the occupation of the approved dwellings, all associated basement parking spaces must be line-marked, numbered and signposted to provide allocation to each dwelling and visitors to the satisfaction of the Responsible Authority.
30. Automatic basement door opening systems must be installed and maintained, so as to facilitate secure access to the allocated parking areas by residents, visitors and a rubbish collection contractor, to the satisfaction of the Responsible Authority.

#### **Fencing**

31. Prior to the occupation of the approved dwellings, all fencing must be erected in good condition in accordance with the plans endorsed under Condition 1 of this permit to the satisfaction of the Responsible Authority.

#### **Retaining Walls**

32. All retaining walls must be constructed and finished in a professional manner to ensure a neat presentation and longevity to the satisfaction of the Responsible Authority.

#### **Maintenance**

33. Buildings, paved areas, drainage and landscaping must be maintained to the satisfaction of the Responsible Authority.

#### **Construction Management**

34. The owner must use appropriate site management practices to prevent the transfer of mud, dust, sand or slurry from the site into drains or



onto nearby roads. In the event that a road or drain is affected, the owner must upon direction of the Responsible Authority take the necessary steps to clean the affected portion of road or drain to the satisfaction of the Responsible Authority.

35. The extent and depth of cut and fill must not exceed that shown on the approved plan without the written consent of the Responsible Authority.

#### Permit Expiry

36. This permit will expire if one of the following circumstances applies:

- 36.1 The development is not started within two (2) years of the date of this permit; and  
36.2 The development is not completed within four (4) years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing by the owner or occupier either before the permit expires or in accordance with Section 69 of the *Planning & Environment Act 1987*.

## 2. BACKGROUND

### Application Background

- 2.1 The original permit application was lodged with Council on 7 September 2018.
- 2.2 Extensive concerns were identified by Council Officers and a number of revisions and amendments were made to the application by the Applicant prior to proceeding to public notification.
- 2.3 The application was put on public notification for a two-week period, concluding on 8 August 2018. A total of ninety-two (92) objections were received.
- 2.4 There were no applicable determining or recommending referral authorities.
- 2.5 Council's delegate refused the application on 3 September 2019, relying on the following grounds:
- The development fails to comply with the preferred neighbourhood character outcomes of Clause 21.05 (Residential Precinct 2) and Design and Development Overlay Schedule 8-3 (DDO8-3), contrary to the objectives of Clause 55.02-1 Neighbourhood Character of the Manningham Planning Scheme*
  - The proposal is an overdevelopment of the site, resulting in unreasonable bulk and massing, contrary to policy in Clause 21.05 (Residential Precinct 2) and design objectives of Schedule 8 to Clause 43.02 Design and Development Overlay of the Manningham Planning Scheme.*

3. *The location of service equipment along the frontage of the site the retaining walls within the frontage compromises landscaping opportunities contrary to design objectives of Design and Development Overlay Schedule 8-3 (DDO8-3).*
  4. *The lack of windows that maximum daylight and solar energy to the ground floor living/dining area of Unit 1 is contrary to the objectives of Clause 55.03-5 (Energy efficiency) of the Manningham Planning Scheme.*
  5. *The development will have unreasonable amenity impacts to the existing properties to the north with regard to potential overlooking from Unit 6 ground and first floor north-facing windows, contrary to the objectives and standard of Clause 55.04-6 (Overlooking) of the Manningham Planning Scheme.*
  6. *The development will have unreasonable amenity impacts to the existing property to the east with regard to potential overlooking from Unit 2 ground terrace, contrary to the objectives and standard of Clause 55.04-6 (Overlooking) of the Manningham Planning Scheme.*
  7. *The proposed glazed entry doors along the common property pedestrian path compromises the privacy of adjoining residents, contrary to the objective of Clause 55.04-7 (Internal Views) of the Manningham Planning Scheme.*
  8. *The lack of visible and easily identifiable weather protection entry to Units 2, 3, 4, 5 and 6 is contrary to the objective of Clause 55.05-2 (Dwelling entry) of the Manningham Planning Scheme.*
  9. *The secluded private open space of Units 1, 3, 4 and 5 does not satisfy the objective and standard of Clause 55.05-4 (Private open space) of the Manningham Planning Scheme.*
  10. *The secluded private open space of Unit 1 does not satisfy the objective and standard of Clause 55.05-5 (Solar access to open space) of the Manningham Planning Scheme.*
  11. *The storage of Units 2 and 3 does not satisfy the objective and standard of Clause 55.05-6 (Storage) of the Manningham Planning Scheme.*
  12. *The north-most car space of Unit 6 does not satisfy the requirements of Design standard 1 of Clause 52.06-9 (Car Parking) of the Manningham Planning Scheme.*
- 2.6 Refusal of the application was based on the plans prepared by *Planning & Design*, job number 6181, revision B, dated 3 July 2019 (**Decision Plans**).

### **Appeal Background**

- 2.7 On 2 October 2019, an application under the Major Cases List was lodged with VCAT under Section 77 of the *Planning and Environment Act 1987* for review of Council's refusal to grant a permit.
- 2.8 In accordance with VCAT regulations, all original objectors were served with notice of the application for review.

- 2.9 Only one statement of grounds were received, however did not wish to be joined as a party to the proceeding. Council and the Applicant remained as the only parties involved in the proceeding.
- 2.10 Following the lodgement of the review application, the Applicant flagged their intent to put forward a revised concept seeking to address the grounds of refusal and achieve Council support.
- 2.11 The applicant proceeded to engage in extensive discussions with Council Officers, which included the submission of several iterations of amended plans. These discussions culminated in a Compulsory Conference (mediation) held at VCAT on 20 January 2020.
- 2.12 Following the Compulsory Conference, the Applicant circulated a final set of amended plans to Council and to all originally notified properties and persons who submitted a statement of grounds (plans prepared by *Planning & Design*, job number 6181, revision F, dated 28 January 2018) (**Amended Plans**).
- 2.13 All original objectors now have a second opportunity to be involved in the appeal proceeding. Statement of grounds must be received at VCAT by 28 February 2020.
- 2.14 The Amended Plans have been circulated in accordance with the guidelines established under VCAT Practice Note PNPE9 – *Amendment of Plans and Applications*.
- 2.15 The hearing is scheduled to commence on 23 March 2020. Council is required to reach a position on the Amended Plans prior to the hearing so it can inform all other parties, take appropriate action and make submissions to the Tribunal accordingly.
- 2.16 Should Council adopt the Officer recommendation to support the proposal there are a number of different ways the appeal process could proceed:
- 2.16.1 If no statement of grounds are received and the Applicant accepts Council's conditions, Council and the Applicant have the opportunity to seek an outcome via mutual consent through the filing of consent orders, avoiding the need to go to hearing.
- 2.16.2 If no statement of grounds are received but the Applicant does not accept Council's conditions and this disagreement cannot be resolved, there may still be a need to proceed to a shorter form of hearing to allow VCAT to determine the appropriateness of the conditions in dispute.
- 2.16.3 If statement of grounds are received, the matter will proceed to the scheduled hearing and Officers will make submissions to VCAT as to why the proposal should be supported. This may still include a more minor dispute over conditions between Council and the Applicant if the Applicant does not accept Council's conditions.
- 2.17 Alternatively, should Council resolve not to support the amended plans, the matter will proceed to hearing as scheduled. Council representatives will make submissions based on any amended grounds of refusal.

### 3. THE SITE AND SURROUNDS

#### The Site

- 3.1 The site is situated on the northern side of Glendale Avenue, approximately 40 metres from the change of direction that leads to Foote Street.
- 3.2 The rectangular shaped site has a south-to-north orientation with a width of 18.29 metres and depth of 45.72 metres for a site area of 836.2 square metres.
- 3.3 The site is affected by a 1.83 metre wide drainage and sewerage easement that is located along the northern boundary.
- 3.4 The site is currently developed with a split-level brick dwelling located centrally within the lot with an undercroft carport. The frontage is unfenced and the side and rear boundaries are defined by timber paling fences of various heights.
- 3.5 A crossover on the eastern side of the frontage provides vehicle access via a driveway that runs along the eastern boundary.
- 3.6 A large multi-stemmed *Sydney Red Gum* (Tree 2), which is approx.13 metre height, is located within the front setback amongst a garden setting that includes dense, heavily manicured grounds cover and low lying shrubs. The landscaping appears to extent forward of the title boundary to the footpath.
- 3.7 A number of mature trees are also located within the rear setback of the site (trees 5 to 7).
- 3.8 A mature street tree is located forward of the site, approximately 4 metres west of the crossover.
- 3.9 The land has a significant cross-fall, with the high point being at the south-western corner, falling a total of 4.32 metres to the north-eastern corner.

#### The Surrounds

- 3.10 Glendale Avenue is a multi-faceted local road that includes two north-to-south sections that connect to Foote Street, an east-to-west section and a court-bowl.
- 3.11 Glendale Avenue features a road reserve defined by street trees, with a mixed character of frontages, both fenced and unfenced. Footpaths are provided on both sides of the road and on-street car parking is generally available on both sides of the road reserve.
- 3.12 The surrounding land is developed for residential purposes with a mix of traditional single dwelling developments and newer multi-unit developments.
- 3.13 Whilst the character of the area is mixed, traditional brick finishing with pitched tiled roof forms remain most prevalent.
- 3.14 *Templestowe Village* neighbourhood activity centre is located approximately 200 metres to the west (as the crow-flies).
- 3.15 Foote Street and Williamsons Road are the nearest main roads. These roads also contain bus stops that are serviced by a number of routes. The nearest bus stop is approximately 280 metres away (measured along the roads).

3.16 The site has direct abuttals with four properties, as follows:

Direction	Address	Description
West	1/19, 2/19 and 3/19 Glendale Avenue, Templestowe	<p>Contains a recently constructed multi-dwelling development consisting of three, two-storey townhouses in a tandem arrangement which has since been subdivided.</p> <p>The development was approved under Planning Permit PL12/022697 and was completed in 2015 having since also been subdivided.</p> <p>The dwellings are attached at the ground floor level and feature separation at the first floor level. Private open space areas are located along the western boundary.</p> <p>The common property accessway runs along the eastern boundary (adjoining the subject land) along with the garage of the rear dwelling.</p>
East	1/23 and 2/23 Glendale Avenue, Templestowe	<p>Contains an older multi-unit development consisting of two split-level townhouses in a tandem arrangement.</p> <p>The development was approved under Planning Permit PL93/006315 and have since been subdivided.</p> <p>The dwellings are attached via a garage and private open space areas are located to the sides and front/rear of the dwelling respectively.</p> <p>The common property accessway runs along the eastern boundary.</p>
North	10 Hovea Street, Templestowe	<p>Contains a single dwelling that is located in excess of 10 metres from the subject land.</p> <p>Private open space is provided in the form of a traditional rear yard area that adjoins the subject land.</p> <p>A large <i>Lemon Scented Gum</i> is located within the rear yard.</p>

North	12 Hovea Street, Templestowe	<p>Contains a single dwelling that is located a minimum of approximately 6 metres from the subject land.</p> <p>Private open space is provided in the form of a traditional rear yard area that adjoins the subject land.</p>
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#### 4. THE PROPOSAL

##### Amendments

- 4.1 A copy of the original Decision Plans (Revision B) is provided as Attachment 1 to this report. The Delegate Report that provides the Council Officer assessment of these plans and the refusal notice are provided as Attachment 2 and Attachment 3 respectively.
- 4.2 The Amended Plans (revision F) are provided as Attachment 4.
- 4.3 The Amended Plans provide changes from the Decision Plans in response to the grounds of refusal and the more detailed concerns identified within the Delegation Report. These include:
- 4.3.1 Alterations at the basement level, including the reconfiguration of the northern-most car parking space and relocation the storage areas for dwellings 2 and 3.
  - 4.3.2 Reconfiguration of the front setback area, including relocation of the entry stairs, deletion of the retaining wall forward of Dwelling 1 and relocation of the service cupboards to alongside the driveway.
  - 4.3.3 Conversion of Dwelling 1 to a 'reverse-living' arrangement with the living area and balconies at the first floor level and bedrooms at the ground floor level.
  - 4.3.4 Increase to the eastern boundary ground floor level setback of dwellings 3-6 by 0.4 metres, subsequently increasing the respective secluded private open space (SPOS) areas by 2.3 square metres.
  - 4.3.5 Reconfiguration of the primary entries of dwellings 2-6, including recessing of entry spaces and additional entry canopies.
  - 4.3.6 Reductions in the footprint at the first floor level through removal of four bedrooms, including the introduction of graduated separation between dwellings 2 and 3 and dwellings 4 and 5, deletion of the east-facing terraces and increases to the eastern boundary setbacks.
  - 4.3.7 Alterations to the external design detail which include removal of the gable ends.
  - 4.3.8 Alterations to boundary fencing treatments.

##### Proposal Description

- 4.4 The proposal, as shown on the Amended Plans, consists of six, two-storey dwellings in an attached, tandem arrangement over a basement garage.
- 4.5 The proposal provides a site coverage of 59.3 percent, permeability of 32.4 percent and garden area of 35.7 percent.
- 4.6 The maximum building height is 7.1 metres.
- 4.7 All dwellings are orientated towards the west, with access provided via a communal walkway along the western boundary.
- 4.8 Dwelling 1 provides a reverse living arrangement with a first floor level, south-facing balcony providing the SPOS.
- 4.9 All other dwellings have a conventional internal configuration with SPOS provided at the ground level on the eastern side of the building. Dwelling 6 includes additional SPOS to the rear.
- 4.10 All dwellings contain three bedrooms, with the exception of Dwelling 6 which contains four bedrooms.
- 4.11 All dwellings are provided with two car-parking spaces within the basement level.
- 4.12 Dwellings 1 to 3 are provided with tandem car parking and access the basement via a communal stairwell. Dwellings 4 to 6 have their own internal access to the basement level and are also provided with laundry facilities within the basement. Storage is provided in the form of cages/cupboards or storage rooms.
- 4.13 Vehicle access to the basement is provided via the existing crossover which is to be widened.
- 4.14 The proposal includes retention of Tree 2 (within the front setback) and Tree 7 (within the rear setback).
- 4.15 Outside of the actual basement cavity, earthworks are most prevalent along the western boundary, including retaining walls of up to 1.5 metres in height to manage the cut required for the pedestrian entry pathway.
- 4.16 The development includes a contemporary design detail with flat roof forms, utilising a range of external finishes including render and timber cladding.
- 4.17 The frontage is to remain unfenced.

## 5. LEGISLATIVE REQUIREMENTS

- 5.1 Refer to attachment 5 for extracts of the applicable sections of the *Planning and Environment Act 1987* and the Manningham Planning Scheme.
- 5.2 Pursuant to Clause 32.08-6 of the General Residential Zone, a planning permit is required to construct two or more dwellings on a lot.
- 5.3 Pursuant to Clause 43.02-2 of the Design and Development Overlay, a planning permit is required to construct a building or construct or carry out works.

- 5.4 Through local policy and the application of the relevant zones and overlays, the subject land and surrounding area is identified as being within Residential Precinct 2, which applies to residential areas surrounding activity centres and along main roads. The land falls within residential precinct 2 due to the proximity to both *Templestowe Village* and the surrounding main roads.
- 5.5 Residential Precinct 2 anticipates and encourages a *substantial level of change*. Within Precinct 2, the subject land falls within Sub-Precinct B. Sub-Precinct B is the lower order in terms of development densities within the *substantial change* area.

## 6. REFERRALS

### External

- 6.1 There are no applicable determining or recommending referral authorities.

### Internal

- 6.2 Comments were sought from Council's Infrastructure Service unit during the processing of the original planning permit application. The comments identified issues with vehicles reversing from the northern-most car parking space within the basement. This concern informed a specific ground of refusal (ground 12).
- 6.3 Updated advice has been sought from Council's Infrastructure Service unit in response to the Amended Plans. They have confirmed that this specific concern can be readily addressed via permit condition.

## 7. CONSULTATION / NOTIFICATION

- 7.1 Notice of the original planning permit application was given over a two-week period which concluded on 8 August 2018. A total of ninety-two (92) objections were received.
- 7.2 The objections contained grounds that broadly related to:
- 7.2.1 DDO8 compliance;
  - 7.2.2 Scale and size of the development;
  - 7.2.3 Design detail;
  - 7.2.4 Amenity impacts through overshadowing, overlooking and visual bulk;
  - 7.2.5 Site response;
  - 7.2.6 Vehicle access and car parking; and
  - 7.2.7 Landscaping and open space provision.
- 7.3 All original objectors were required to be notified of the commencement of a review proceeding by the Applicant by no later than 7 November 2019 in accordance with VCAT standard procedures.



- 7.4 All original objectors had until 25 November 2019 to submit a statement of grounds and become a 'party' to the proceeding.
- 7.5 One statement of grounds was received, however did not wish to be joined as a party to the proceeding. Subsequently, prior to the circulation of the proposed Amended Plans, there have been no third parties involved in the proceeding.
- 7.6 In accordance with VCAT regulations, where an Applicant proposes to amend their proposal in a manner which generally reduces the proposal (as is the case in this instance), public re-notification is generally not required.
- 7.7 However, given the significant community interest in the application, Council Officers negotiated a requirement for all originally notified properties and people who had submitted statement of grounds to be notified of the proposed Amended Plans.
- 7.8 Subsequently, notice was served on 5 February 2020, and all original objectors now have a second opportunity to be involved in the review proceeding should they wish to. Statement of grounds are due by 28 February 2020.
- 7.9 VCAT will be responsible for the consideration of any further statement of grounds should they be submitted.

## 8. ASSESSMENT

### Has the proposal addressed the original reasons for refusal of the application?

- 8.1 The amended proposal seeks to address Council's concerns not through a reduction in dwelling numbers, but through a reduction in the scale and built form largely achieved by reducing the number of bedrooms within the dwellings. Through the removal of four bedrooms from within the development, the first floor level achieves a 52 square metre footprint reduction.
- 8.2 When assessing an application within the residential zones, the number of dwellings is not a relevant factor for consideration. Instead, it is the scale and layout of the development relative to amenity and character based considerations that determine the acceptability of a development. This line of thinking has been frequently reinforced in VCAT decisions over the years (most recently in *RYJ Development Pty Ltd v Monash CC* [2020] VCAT 87, [http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2020/87.html?context=1;query=derbyshire;mask\\_path=au/cases/vic/VCAT](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2020/87.html?context=1;query=derbyshire;mask_path=au/cases/vic/VCAT)).
- 8.3 Consequently, the number of dwellings is not a determinative factor and the fact that the Amended Plans do not reduce the dwelling numbers is not critical in consideration of this application. The application must be considered on the basis of neighbourhood character and amenity based concerns that were identified in Council's refusal of the original application.
- 8.4 Council's refusal of the application did not relate to any fundamental opposition to the six-dwelling development or even the terraced style layout of the development, noting that the area is strategically earmarked for 'substantial change'. Further, the original assessment of the application, as contained within the Delegate Report, acknowledges policy support for a development of this nature.

- 8.5 Instead, the issues with the application related to specific aspects of the proposal that, in combination, arrived at a conclusion that the proposal was seeking too much from the site. These concerns were reflected through the twelve grounds of refusal.
- 8.6 Subsequently, an amended proposal that retains the more holistic details of the application but includes changes to address the specific reasons for refusal of the application can be an acceptable proposition.
- 8.7 Based on this, the appropriateness of the amended proposal is best determined via an assessment against the grounds of refusal, as follows.
- 8.8 Ground of Refusal 1 and Ground of Refusal 2
- The development fails to comply with the preferred neighbourhood character outcomes of Clause 21.05 (Residential Precinct 2) and Design and Development Overlay Schedule 8-3 (DDO8-3), contrary to the objectives of Clause 55.02-1 Neighbourhood Character of the Manningham Planning Scheme.*
- The proposal is an overdevelopment of the site, resulting in unreasonable bulk and massing, contrary to policy in Clause 21.05 (Residential Precinct 2) and design objectives of Schedule 8 to Clause 43.02 Design and Development Overlay of the Manningham Planning Scheme.*
- 8.9 The first two grounds are best addressed in conjunction with each other given that they contain interrelated concerns. These grounds largely relate to lack of adherence to the built form outcomes anticipated within Residential Precinct 2.
- 8.10 The Delegation Report elaborates on this issue by identifying the problematic aspects of the design being the scale of the first floor as a result of the cantilevering and lack of building breaks/articulation and the presence of dominant architectural features.
- 8.11 A full assessment against the DDO8 is provided under the proceeding section of this assessment. Subject to conditions, the development accords with the relevant design objectives and policy of the DDO8.
- 8.12 The Amended Plans significantly reduce the size of the first floor level, introducing two clear breaks between dwellings and increasing setbacks to the south. Further, the amended proposal has removed the heavy gable elements from the side and rear elevations. These changes serve to significantly reduce visual bulk at the upper level.
- 8.13 The following images provide a comparison of the Decision Plans (top) and Amended Plans (bottom), demonstrating the evident reduction in bulk:

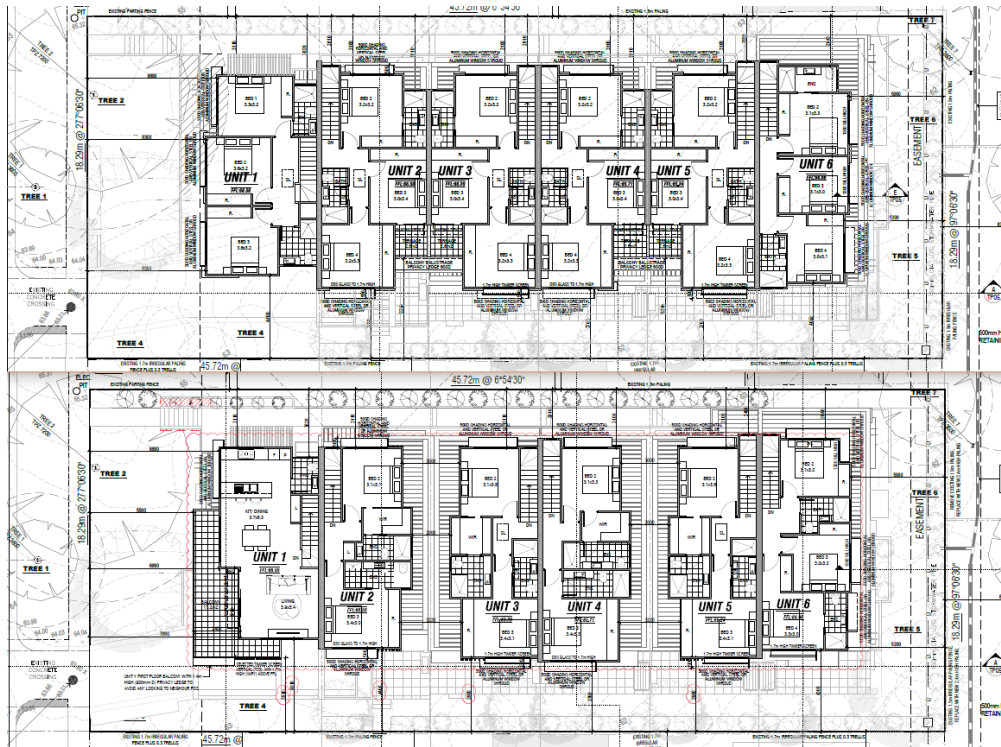


Figure 1: First floor plans.



Figure 2: Elevation plans.

8.14 The first floor level is now in-line with the development expectations for Residential Precinct 2. These grounds have therefore been addressed.

8.15 Ground of Refusal 3

*The location of service equipment along the frontage of the site the retaining walls within the frontage compromises landscaping opportunities contrary to design objectives of Design and Development Overlay Schedule 8-3 (DDO8-3).*

8.16 The service cabinet has been relocated from the site frontage to within the retaining wall adjacent to the driveway. This is an appropriate location as it is integrated within the built form and does not contribute additional bulk to the streetscape.

8.17 The retaining walls within the front setback have been reconfigured to both minimise impacts to Tree 2 (to be retained) and ensure maximum new landscaping opportunities. The retaining wall that was previously forward of Dwelling 1 has been removed entirely, whilst the retaining walls and cut associated with the common walkway has been relocated further within the site.

8.18 This ground has been addressed.

8.19 Ground of Refusal 4

*The lack of windows that maximum daylight and solar energy to the ground floor living/dining area of Unit 1 is contrary to the objectives of Clause 55.03-5 (Energy efficiency) of the Manningham Planning Scheme.*

8.20 Dwelling 1 has now been converted to a reverse living arrangement, with the kitchen/living and SPOS (in the form of a balcony) provided at the first floor level. As a result, the open plan living area is now provided with windows to three sides, no longer relying on a single south-facing interface.

8.21 This ground has been addressed.

8.22 Ground of Refusal 5

*The development will have unreasonable amenity impacts to the existing properties to the north with regard to potential overlooking from Unit 6 ground and first floor north-facing windows, contrary to the objectives and standard of Clause 55.04-6 (Overlooking) of the Manningham Planning Scheme.*

8.23 The Amended Plans now include a new 2.4 metre high timber paling fence along the northern boundary, replacing the previous proposal for retention of the existing 1.5 metre high fence with an additional 0.6 metres of trellis as was shown on the Decision Plans.

8.24 Given the building setbacks and window design, the new fence provides sufficient screening for all north-facing windows within the development (both ground and first floor). This is demonstrated through Section E-E, which depicts site-lines as being blocked by either the window shroud or the boundary fence in a manner that complies with Standard B22 of Clause 55.04-6 Overlooking of the Scheme.

8.25 This ground has been addressed (further assessment of overlooking is provided under the Clause 55 assessment table located at a later stage of the planning assessment section of this report).

8.26 Ground of Refusal 6

*The development will have unreasonable amenity impacts to the existing property to the east with regard to potential overlooking from Unit 2 ground terrace, contrary to the objectives and standard of Clause 55.04-6 (Overlooking) of the Manningham Planning Scheme.*

- 8.27 The Amended Plans now provide for a continuous 0.6 metre trellis addition above the existing 1.7 metre high timber paling fence along the entirety of eastern boundary (behind Dwelling 1).
- 8.28 The trellis addition reaches a height in excess of 1.7 metres above the finished floor level of the terrace within Dwelling 2's SPOS area, providing sufficient screening in accordance with Standard B22 of Clause 55.04-6 Overlooking of the Scheme.
- 8.29 However, unnecessary screening on the boundary is not an ideal outcome that should be minimised where possible. Excess trellis is a poor outcome.
- 8.30 To address this, permit **conditions** will require demonstration of the extent of screening that is actually required and the screening provision to be tailored accordingly. This will include replacement of the existing fence with a new fence of 2 metres in height, minimising the extent of trellis that is required.

8.31 Subject to these conditions, this ground has been addressed.

8.32 Ground of Refusal 7

*The proposed glazed entry doors along the common property pedestrian path compromises the privacy of adjoining residents, contrary to the objective of Clause 55.04-7 (Internal Views) of the Manningham Planning Scheme.*

- 8.33 The Amended Plans provide for recessed entry ways for majority of the dwellings, removing the dwelling entries from the pathway and creating a sense of separation and privacy.
- 8.34 Irrespective of this change, the use of fully glazed entry doors is still a poor outcome with regard to internal privacy. This can be readily addressed via a permit **condition** that requires a reduction in the extent of glazing applied to these doors.

8.35 Subject to this condition, this ground has been addressed.

8.36 Ground of Refusal 8

*The lack of visible and easily identifiable weather protection entry to Units 2, 3, 4, 5 and 6 is contrary to the objective of Clause 55.05-2 (Dwelling entry) of the Manningham Planning Scheme.*

- 8.37 The Amended Plans are now clear that each dwelling entry has a canopy over to provide weather protection and a sense of identification to the respective dwelling entries.
- 8.38 Further, the recessing of the entry spaces to Dwellings 2 and 3 along with the provision of a feature wall between the entries of Dwellings 5 and 6 improves the sense of address of each of these dwellings by providing a more individualised external transition space.

8.39 This ground has been addressed.

8.40 Ground of Refusal 9

*The secluded private open space of Units 1, 3, 4 and 5 does not satisfy the objective and standard of Clause 55.05-4 (Private open space) of the Manningham Planning Scheme.*

- 8.41 In converting Dwelling 1 to a reverse-living arrangement, the SPOS is now provided in the form of a balcony at the first floor level. The balcony has a minimum area of 17.2 square metres with a prevailing width of 2.4 metres. This comfortably exceeds the requirements of Standard B28 of Clause 55.05-4 Private Open Space (8 square metres and 1.6 metre width for a balcony) and even exceeds the increased requirements of the technically not-applicable apartment guidelines (Standard B43 requires 12 square metres with a minimum dimension of 2.4 metres for an apartment of 3 or more bedrooms).
- 8.42 In increasing the eastern boundary setback to dwellings 3 to 5, the primary SPOS area of each dwelling has also been increased to at least 25.1 square metres with a minimum dimension of 4.3 metres. This complies with the requirements of Standard B28 for ground floor private open space which requires a minimum of 25 square metres with a minimum dimension of 3 metres.
- 8.43 Based on the above, sufficient secluded private open space is now provided to all dwellings for the reasonable recreation and service needs of future residents.
- 8.44 This ground has been addressed.

8.45 Ground of Refusal 10

*The secluded private open space of Unit 1 does not satisfy the objective and standard of Clause 55.05-5 (Solar access to open space) of the Manningham Planning Scheme.*

- 8.46 In relocating Dwelling 1's SPOS to the first floor level, the level of solar access to the space has significantly improved.
- 8.47 Previously, the undersized ground level SPOS sat on the southern side of the dwelling and entirely beneath the cantilevered first floor above. The open aspects to the south and east were further impeded by screening and feature columns respectively.
- 8.48 The first floor balcony now has an open aspect to the south, east and west, with a small area also provided with some northern aspect. Whilst the balcony continues to be located on the southern side of the dwelling, a level of solar access will still be provided during the morning and evening periods due to the multi-aspect nature of the space.
- 8.49 On balance, this is considered to be an acceptable outcome, particularly given that all other dwellings feature near unimpeded northern aspect to their open space areas.
- 8.50 This ground has been addressed.

8.51 Ground of Refusal 11

*The storage of Units 2 and 3 does not satisfy the objective and standard of Clause 55.05-6 (Storage) of the Manningham Planning Scheme.*

- 8.52 The Decision Plans depicted the basement storage areas of Dwelling 2 and Dwelling 3 as being within a wall and column respectively. Whilst these areas did technically meet the volume requirements of Standard B30 of Clause 55.05-6 Storage, they were considered to be largely unusable based on their minimal width.
- 8.53 The Amended Plans relocate the storage areas adjacent to the bin storage area within the basement. Crucially, the areas are now of a more conventional size and shape.
- 8.54 Subject to a condition requiring details of these spaces, this ground will be addressed.

8.55 Ground of Refusal 12

*The north-most car space of Unit 6 does not satisfy the requirements of Design standard 1 of Clause 52.06-9 (Car Parking) of the Manningham Planning Scheme.*

- 8.56 The swept path diagrams that accompanied the Decision Plans depicted the northern-most car parking space of Dwelling 6 as utilising the space adjacent to the car parks of Dwellings 1-3 to perform a change of direction. This was considered to be the most efficient way to perform a change of direction due to the lack of reversing area adjacent to the space.
- 8.57 The Decision Plans relocate the space an additional 0.9 metres west, providing additional reversing space for an easier change of direction.
- 8.58 Council's traffic engineers are not satisfied that this represents an appropriate solution as it would still result in complex vehicle manoeuvres. However, providing an additional reversing space of 0.5 metres on the eastern side of the basement (adjacent to this space only) would readily allow for a change of direction. This can readily be required by a **condition**.
- 8.59 This is considered to be an acceptable design response as the basement would continue to be setback a sufficient distance from the site boundary to allow for screen planting as required.
- 8.60 Subject to this change, this ground will be addressed.

**Neighbourhood Character Response (Design and Development Overlay, Schedule 8)**

- 8.61 A development must respect the *existing neighbourhood character* or contribute to a *preferred neighbourhood character*. In an instance where a preferred neighbourhood character is expressively established, this trumps consideration of the existing neighbourhood character.
- 8.62 A preferred neighbourhood character is established within Residential Precinct 2 through the application of the Design and Development Overlay, Schedule 8 (DDO8). Subsequently, compliance with the preferred character is relevant in this instance.
- 8.63 The following table provides an assessment of the Amended Plans against the DDO8:

Design Element	Compliance
<b>Building Height and Setbacks DDO8-3 (Sub-Precinct B)</b>	
<p>9 metres, unless the slope of the natural ground level at any cross section wider than eight metres of the site of the building is 2.5 degrees or more, in which case the maximum height must not exceed 10 metres.</p>	<p><b>Satisfied</b></p> <p>The slope of the site enables a maximum building height of 10m. The proposed maximum building height is 7.1 metres, compliant by 2.9 metres.</p>
<p>Minimum front street setback is the distance specified in Clause 55.03-1 or 6 metres, whichever is the lesser.</p> <p>For the purposes of this Schedule, balconies, terraces and verandahs may encroach within the Street Setback by a maximum of 2.0m, but must not extend along the width of the building.</p>	<p><b>Satisfied</b></p> <p>A 6.0m front setback is achieved to Glendale Avenue.</p> <p>The first floor, street-facing balcony of Dwelling 1 does not protrude further than 2 metres into the frontage or extend across the full width of the building.</p>
<b>Form</b>	
<p>Ensure that the site area covered by buildings does not exceed 60 percent.</p>	<p><b>Satisfied</b></p> <p>The development has a site coverage of 59.3 percent.</p>
<p>Provide visual interest through articulation, glazing and variation in materials and textures.</p>	<p><b>Satisfied subject to conditions</b></p> <p>The development incorporates a range of different measures to provide visual interest that include an appropriate contemporary mix of render and timber/colorbond steam cladding.</p> <p>Whilst the range of finishes is generally appropriate, the application of these materials is excessive and overdone in some locations. Namely, the use of 'batten screening' over timber cladding on the side elevations is excessive and 'complicates' the building presentation. The use of this feature is considered to be unnecessary with appropriate visual interest provided by the mixture of materials behind it. This can be addressed by a permit <b>condition</b> that requires complete removal of the batten screen from the proposal.</p> <p>Further, to the frontage the mixture of materials applied to the balustrade associated with the first floor balcony contributes unnecessary visual bulk. The glazing finish is considered to be most appropriate as it provides a softness to the presentation. Subsequently, a permit <b>condition</b> can require the balustrade (including the screening device applied to the eastern side) to be entirely of a glazed material.</p> <p>Appropriate window placement and scale is utilised to provide further visual interest.</p>
<p>Minimise buildings on boundaries to create spacing between developments.</p>	<p><b>Satisfied</b></p> <p>No buildings are proposed on any of the</p>



Design Element	Compliance
	boundaries.
Where appropriate ensure that buildings are stepped down at the rear of sites to provide a transition to the scale of the adjoining residential area.	<p><b>Satisfied subject to condition</b></p> <p>Whilst the built form is generally well articulated and stepped to provide a transition, it does not provide a sufficient enough built form reduction to Dwelling 6 considering the sensitive SPOS interfaces to the north.</p> <p>To the eastern side, whilst the side setback does increase from the prevailing eastern side setbacks, it results in a sheer two-storey wall. To the western side, the proposed setback of Dwelling 6 is almost the minimum western boundary setback found within the development. Permit conditions can address this by requiring:</p> <ul style="list-style-type: none"> <li>• The first floor level setback on the eastern side setback an additional 0.5 metres, achieving a subsequent recessing of 0.5 metres; and</li> <li>• The first floor level western setback to be at least 3.1 metres, to at least mimic the prevailing western boundary setback provided within the development.</li> </ul> <p>These conditions will ensure appropriate reduction of the built form to the rear.</p>
Where appropriate, ensure that buildings are designed to step with the slope of the land.	<p><b>Satisfied</b></p> <p>The proposed dwellings step down towards the rear of the site in accordance with the fall of the land. The basement is also designed in this manner.</p>
Avoid reliance on below ground light courts for any habitable rooms.	<p><b>Satisfied</b></p> <p>No below ground light courts are proposed.</p>
Ensure the upper level of a two storey building provides adequate articulation to reduce the appearance of visual bulk and minimise continuous sheer wall presentation.	<p><b>Satisfied subject to conditions</b></p> <p>The first floor level provides a noticeable reduction in footprint from that of the level below (approx. 78 percent).</p> <p>Crucially, the first floor level includes clear gaps at two key locations, between dwellings 2 and 3 and between dwellings 4 and 5 to provide visual relief to adjoining properties to the east and west. The stepping down of the building heights to reflect the slope of the land also assists in this regard.</p> <p>The first floor level also incorporates varied side setbacks to minimise the 'sheer' horizontal appearance. Critically, this includes greater eastern boundary setbacks to Dwelling 1 and Dwelling 2 to minimise visual bulk when viewed from the street.</p>

Design Element	Compliance
	<p>Conversely, the streetscape presentation undoes a lot of the good work, appearing 'unbalanced' due to the cantilevering on the western side and prominent arbor-like treatment over the driveway on the eastern side. The cantilevering of the eastern side is acceptable as it is softened by the protruding balcony.</p> <p>The unbalanced streetscape presentation can be addressed via <b>conditions</b> that require the western side be recessed (setback increased by 0.51 metres minimum which results in a consistent setback with the powder room), deletion of the cladding feature at the south-western corner and deletion of the forward-most arbor on the eastern side.</p>
<p>Ensure that the upper level of a three storey building does not exceed 75% of the lower levels, unless it can be demonstrated that there is sufficient architectural interest to reduce the appearance of visual bulk and minimise continuous sheer wall presentation.</p>	<p><b>Not applicable</b></p> <p>The proposal is two storeys only.</p>
<p>Integrate porticos and other design features with the overall design of the building and not include imposing design features such as double storey porticos.</p>	<p><b>Satisfied</b></p> <p>There are no porticos or imposing design elements proposed. Design features are well-integrated into the overall design of the building.</p>
<p>Be designed and sited to address slope constraints, including minimising views of basement projections and/or minimising the height of finished floor levels and providing appropriate retaining wall presentation.</p>	<p><b>Satisfied</b></p> <p>The dwellings respond well to the fall of the land by stepping down the site minimising potential amenity impacts to adjacent properties.</p> <p>Overall, the development retains a reasonably low profile (particularly to the eastern side), consistent with development profiles within the surrounding streetscape.</p>
<p>Be designed to minimise overlooking and avoid the excessive application of screen devices.</p>	<p><b>Satisfied</b></p> <p>The development reacts well to its surrounds, designed in a manner that avoids the need for any screening treatment to majority of windows on the northern and western elevations through the provision of a higher boundary fences (discussed under the Clause 55.04-6 assessment).</p> <p>Screening to the windows on the eastern elevation is largely unavoidable due to the interface to the adjoining property to the east.</p>
<p>Ensure design solutions respect the principle of equitable access at the main entry of any building for people of all mobilities.</p>	<p><b>Satisfied</b></p> <p>The ground level entries of all dwellings respond to the topography of the land minimising steps within the development.</p> <p>The need for stairs at the entry pathway is largely</p>

Design Element	Compliance
	unavoidable given the fall of the land.
Ensure that projections of basement car parking above natural ground level do not result in excessive building height as viewed by neighbouring properties.	<p><b>Satisfied</b></p> <p>The basement is entirely contained below natural ground level.</p>
Ensure basement or undercroft car parks are not visually obtrusive when viewed from the front of the site.	<p><b>Satisfied</b></p> <p>The basement entry is located below natural ground level, is well recessed behind the front wall of the dwelling and includes a permeable door.</p>
Integrate car parking requirements into the design of buildings and landform by encouraging the use of undercroft or basement parking and minimise the use of open car park and half basement parking.	<p><b>Satisfied</b></p> <p>The development utilises a basement for car parking that gains access from the low side of the frontage. The basement has been designed to be contained entirely beneath natural ground level.</p>
Ensure the setback of the basement or undercroft car park is consistent with the front building setback and is setback a minimum of 4.0m from the rear boundary to enable effective landscaping to be established.	<p><b>Satisfied</b></p> <p>The basement level is setback 6 metres from the front boundary and 4 metres from the rear boundary</p>
Ensure that building walls, including basements, are sited a sufficient distance from site boundaries to enable the planting of effective screen planting, including canopy trees, in larger spaces.	<p><b>Satisfied</b></p> <p>The basement level is setback a minimum of 1.5 metres (as per the change required via condition) from side boundaries. At the ground floor level, a minimum setback of 1 metre is proposed (adjacent to on-boundary construction on the adjoining property), whilst the remainder of the building setbacks significantly exceed this.</p>
Ensure that service equipment, building services, lift over-runs and roof-mounted equipment, including screening devices is integrated into the built form or otherwise screened to minimise the aesthetic impacts on the streetscape and avoids unreasonable amenity impacts on surrounding properties and open spaces.	<p><b>Satisfied subject to conditions</b></p> <p>Site screens are shown around all roof-mounted service equipment, however, no details are provided of these screens.</p> <p>A <b>condition</b> should require details of these screens.</p>
<b>Car Parking and Access</b>	
Include only one vehicular crossover, wherever possible, to maximise availability of on street parking and to minimise disruption to pedestrian movement. Where possible, retain existing crossovers to avoid the removal of street tree(s). Driveways must be	<p><b>Satisfied</b></p> <p>The existing crossover is proposed to be retained and widened. The development will not have any impact on the existing street tree.</p>

Design Element	Compliance
setback a minimum of 1.5m from any street tree, except in cases where a larger tree requires an increased setback.	
Ensure that when the basement car park extends beyond the built form of the ground level of the building in the front and rear setback, any visible extension is utilised for paved open space or is appropriately screened, as is necessary.	<p><b>Not applicable</b></p> <p>The basement does not extend beyond the built form of the building at the ground floor level.</p>
Ensure that where garages are located in the street elevation, they are set back a minimum of 1.0m from the front setback of the dwelling.	<p><b>Not applicable</b></p> <p>All car parking is located within the basement level.</p>
Ensure that access gradients of basement carparks are designed appropriately to provide for safe and convenient access for vehicles and servicing requirements.	<p><b>Satisfied</b></p> <p>All gradients at the ramp and within the basement are in accordance with Clause 52.06 of the Scheme.</p>
<b>Landscaping</b>	
On sites where a three storey development is proposed include at least 3 canopy trees within the front setback, which have a spreading crown and are capable of growing to a height of 8.0m or more at maturity.	<p><b>Not applicable</b></p> <p>The proposal is two storeys only.</p>
On sites where one or two storey development is proposed include at least 1 canopy tree within the front setback, which has as spreading crown, and is capable of growing to a height of 8.0m or more at maturity.	<p><b>Satisfied</b></p> <p>Retention of the existing mature tree within the front setback (which is given a <i>high</i> arboricultural rating) is considered to satisfy this requirement.</p>
Provide opportunities for planting alongside boundaries in areas that assist in breaking up the length of continuous built form and/or soften the appearance of the built form.	<p><b>Satisfied</b></p> <p>Screen planting opportunities are available along the rear and side boundaries in all locations where adjacent to the development.</p>
<b>Fencing</b>	
<p>A front fence must be at least 50 per cent transparent.</p> <p>On sites that front Doncaster, Tram, Elgar, Manningham, Thompsons, Blackburn and Mitcham Roads, a fence must:</p> <ul style="list-style-type: none"> <li>• not exceed a maximum height</li> </ul>	<p><b>Not applicable</b></p> <p>No front fence is proposed.</p>

Design Element	Compliance
<p>of 1.8m</p> <ul style="list-style-type: none"> <li>be setback a minimum of 1.0m from the front title boundary</li> </ul> <p>and a continuous landscaping treatment within the 1.0m setback must be provided.</p>	

8.64 Subject to the recommended conditions, the above assessment demonstrates that the proposal will satisfactorily contribute to the preferred neighbourhood character.

### **Building Siting and Amenity (Clause 55 Two or More Buildings on a Lot and Residential Buildings).**

8.65 Clause 55 of the Manningham Planning Scheme provides the relevant assessment criteria for a development of this nature.

8.66 The following table provides the summary Clause 55 assessment that was contained within the Delegation Report for the original proposal as depicted on the Decision Plans, with updates as relevant to reflect the amended proposal. Where the assessment has changed based on the proposal shown on the Amended Plans, it is coloured in blue:

Objective	Compliance
<b>55.02-1 – Neighbourhood Character</b>	Met subject to conditions. Refer to DDO8 assessment provided within this report.
<b>55.02-2 – Residential Policy</b>	Met subject to conditions. Refer to DDO8 assessment provided within this report.
<b>55.02-3 – Dwelling Diversity</b>	N/A. Less than 10 dwellings proposed.
<b>55.02-4 – Infrastructure</b>	Met subject to a condition requiring an on-site storm water detention system.
<b>55.02-5 – Integration With Street</b>	Met. The development is oriented to Glendale Avenue.
<b>55.03-1 – Street Setback</b>	Met. The development meets the 6 metre setback requirement of the DDO8.
<b>55.03-2 – Building Height</b>	Met. The maximum building height is 7.1m; up to 10 metres permitted
<b>55.03-3 – Site Coverage</b>	Met. Site coverage is 59.3%, maximum permitted 60%.
<b>55.03-4 – Permeability and Stormwater Management</b>	Met. Permeability is 32.4%; 20% minimum required.
<b>55.03-5 – Energy Efficiency</b>	Met. All dwellings are provided with dual aspects and adequate opportunities for daylight. Shading is provided to the relevant windows and the

Objective	Compliance
	development will not unreasonably impact energy efficiency of surrounding residences given the lot orientation.
<b>55.03-6 – Open Space</b>	N/A. The site does not adjoin public open space.
<b>55.03-7 – Safety</b>	Met. All dwelling are accessible from the common pedestrian path.
<b>55.03-8 – Landscaping</b>	Met subject to a condition requiring a landscaping plan and standard tree protection measures.
<b>55.03-9 – Access</b>	Met. The existing crossover will be retained to provide access to the common property driveway to the basement garage.
<b>55.03-10 – Parking Location</b>	Met. The basement car parking of Units 1, 2 & 3 will be accessed via a staircase to the common pedestrian path. Units 4, 5 & 6 will have direct internal access via the laundry to each dwelling.
<b>55.04-1 – Side And Rear Setbacks</b>	<p>Met. All setbacks comply with the standard requirements. By way of example to the minimum setback at each interface:</p> <p><u>Ground floor:</u></p> <ul style="list-style-type: none"> <li>• North; ResCode Required Setback = 1.06m; Proposed = 4m metre;</li> <li>• East; ResCode Required Setback = 1.05m; Proposed = 4.3m – 5.5m;</li> <li>• West; ResCode Required Setback = 1m; Proposed = 1m – 3m</li> </ul> <p><u>First floor:</u></p> <ul style="list-style-type: none"> <li>• North; ResCode Required Setback = 1.9m; Proposed = 5m – 5.2m;</li> <li>• East; ResCode Required Setback = 1.89m; Proposed = 3.7m – 4.3m</li> <li>• West; ResCode Required Setback = 1.67m; Proposed = 2.4m – 3.11m;</li> </ul>

Objective	Compliance
<b>55.04-2 – Walls On Boundaries</b>	N/A. There are no walls along any boundaries.
<b>55.04-3 – Daylight To Existing Windows</b>	Met. Windows in the neighbouring dwelling are provided the necessary light court and setbacks from the development.
<b>55.04-4 – North Facing Windows</b>	Met. There are no habitable room window setback within 3 m of the subject land.
<b>55.04-5 – Overshadowing Open Space</b>	Met. The SPOS of Unit 1, 23 Glendale Avenue will receive at least 5 hours of sunlight to the secluded private open space area. Neither the western side covered deck/patio of Unit 2, 23 Glendale Avenue [max. approx. 3m wide] nor the open rear northern area of SPOS [min. 3.6m wide] will not be affected by the proposal. It is considered that the relevant Standard has been met.
<b>55.04-6 – Overlooking</b>	<p>Met subject to conditions.</p> <p>At the ground floor level, the existing and proposed fencing (as relevant) will provide sufficient screening from all habitable room windows and terraces. However, the addition of 0.6 metres of trellis to an 'irregular paling fence' is unlikely to be a durable treatment. As discussed, <b>conditions</b> will required demonstration of the fencing height that is actually required to limit overlooking with the solution tailored to match. This will include replacement of the existing boundary fence with a new fence of at 2 metres in height and any trellis that is then necessary to be erected independent of the fence. A further <b>condition</b> will require details of the trellis to ensure an adequate opacity is utilised.</p> <p>At the first floor level, a range of solutions are proposed.</p> <p>To the north, a combination of the building setback, the window shroud and the new fence height will ensure overlooking is suitably reduced. This is demonstrated on Section E-E (TP05).</p> <p>To the east, all windows are treated to 1.7 metres through either screens, obscure glazing or raised still heights. A <b>condition</b> should require replacement of the timber screen with a more durable material to ensure longevity.</p> <p>To the west, a raised still height is provided to Dwelling 6's Bed 2 window as it is within 9 metres of a window on the adjoining property. No other windows are required to be screened as there are no habitable room windows or SPOS within 9 metres of the windows due to the driveway interface.</p> <p>To ensure eventual delivery of the noted</p>

Objective	Compliance
	screening methods, a permit <b>condition</b> will require all screening treatments notated on the floor plans.
<b>55.04-7 – Internal Views</b>	Met subject to condition. A <b>condition</b> will require reduction in the extent of glazing applied to the primary entry doors to increase internal privacy.
<b>55.04-8 – Noise Impacts</b>	Met.
<b>55.05-1 – Accessibility</b>	Met. Due to the slope of the land down from street level, there are numerous steps required to access each dwelling, as well as from within the building. This is not an ideal situation for residents and visitors to the property, but is acceptable in this circumstance.
<b>55.05-2 – Dwelling Entry</b>	Met. Majority of the dwelling entries are recessed to have their own external entry space, whilst a canopy is provided above the entry of each dwelling for shelter.
<b>55.05-3 – Daylight To New Windows</b>	Met.
<b>55.05-4 – Private Open Space</b>	Met. All dwellings achieve the minimum requirements for SPOS, either 25 square metres at the ground floor level or 8 square metres at an upper level balcony.
<b>55.05-5 – Solar Access To Open Space</b>	Met. Majority of the SPOS areas are unrestricted to the northern side.
<b>55.05-6 – Storage</b>	Met subject to condition. All dwellings are provided with a usable storage area. A <b>condition</b> will require detail of these spaces.
<b>55.06-1 – Design Detail</b>	Met subject to conditions. Refer to DDO8 assessment provided within this report.
<b>55.06-2 – Front Fence</b>	Met. No front fence proposed.
<b>55.06-3 – Common Property</b>	Met. Common property is proposed along the pedestrian path, driveway and within the basement.
<b>55.06-4 – Site Services</b>	Met.

8.67 Subject to the recommended conditions, the above assessment demonstrates that the proposal meets all objectives of Clause 55 of the Manningham Planning Scheme.

## 9. DECLARATION OF CONFLICT OF INTEREST



9.1 No officers involved in the preparation of this report have any direct or indirect conflict of interest in this matter.